

**Representative Keven J. Stratton** proposes the following substitute bill:

**CAPITAL ASSETS RELATED TO WATER**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses policies related to capital assets for water.

**Highlighted Provisions:**

This bill:

- defines terms;
- requires the adoption and implementation of policies and plans related to capital assets;
- requires reporting; and
- addresses the scope of the part.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**19-5-201**, Utah Code Annotated 1953

**19-5-202**, Utah Code Annotated 1953

**73-10g-401**, Utah Code Annotated 1953



26 [73-10g-402](#), Utah Code Annotated 1953

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28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **19-5-201** is enacted to read:

30 **Part 2. Capital Assets for Wastewater**

31 **19-5-201. Definitions.**

32 As used in this part:

33 (1) "Capital asset" means an asset that:

34 (a) is a significant investment or an essential component necessary to provide a service,  
35 including:

36 (i) a facility;

37 (ii) infrastructure, whether above or below ground level;

38 (iii) equipment; or

39 (iv) a communications network; and

40 (b) is owned by a wastewater service provider.

41 (2) "Governing body" means a political subdivision governing body defined in Section  
42 [63A-15-102](#).

43 (3) "Large underground wastewater disposal system" is as defined by rule made by the  
44 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

45 (4) "Policy" means the capital asset assessment, maintenance, and replacement policy  
46 required under Subsection [19-5-202](#)(1).

47 (5) "Qualified capital asset" means a capital asset that is:

48 (a) identified in a policy as a qualified capital asset in accordance with Subsection  
49 [19-5-202](#)(1)(b); and

50 (b) inventoried, assessed, funded, or otherwise subject to a wastewater service  
51 provider's policy in accordance with Section [19-5-202](#).

52 (6) "Wastewater service provider" means a political subdivision of the state that owns,  
53 operates or otherwise sponsors through agreement any sewerage system, a treatment works, or  
54 large underground wastewater disposal system for the collection, storage, treatment, or disposal  
55 of domestic waste.

56 Section 2. Section **19-5-202** is enacted to read:

**19-5-202. Capital asset policies.**

(1) (a) A wastewater service provider shall adopt a policy for the assessment, maintenance, and replacement of a capital asset that is a qualified capital asset.

(b) A policy shall define in general or specific terms which capital assets are qualified capital assets.

(c) A wastewater service provider shall adapt the terms of a policy to the size of the wastewater service provider measured either by annual operating budget or the number of connections served by the wastewater service provider.

(2) The policy shall require the wastewater service provider to:

(a) complete an inventory of each qualified capital asset; and

(b) assess the physical condition of the qualified capital asset at least every five years in accordance with a method established under Subsection (3)(a)(i).

(3) (a) The policy shall establish:

(i) a method to assess the physical condition of a qualified capital asset;

(ii) performance and condition standards for a qualified capital asset;

(iii) a program for monitoring and reporting the wastewater service provider's application of and compliance with the policy, including a comparison of each qualified capital asset's current status and targeted standards for that qualified capital asset as set forth in the policy;

(iv) a process for the wastewater service provider to evaluate an existing qualified capital asset for efficiency and expected service delivery; and

(v) objective criteria for the wastewater service provider to prioritize maintenance or replacement of a qualified capital asset.

(b) A performance and condition standard described in Subsection (3)(a)(ii) may be:

(i) a mandated safety standard;

(ii) a standard condition of receiving federal, state, or local funding; or

(iii) an applicable engineering or other professional standard.

(4) (a) As part of a policy, a wastewater service provider shall adopt financial guidelines to dedicate revenue to a priority qualified capital asset identified under Subsection (3)(a)(v) in accordance with a multiyear qualified capital plan that:

(i) includes criteria and guidelines in the policy for allocating sufficient funds in a

multiyear qualified capital asset plan and in the wastewater service provider's annual operating budget for assessing, maintaining, repairing, and replacing qualified capital assets;

(ii) establishes an ongoing source of funds in the multiyear qualified capital asset plan and each annual operating budget for repair and replacement costs of qualified capital assets in accordance with the policy; and

(iii) establishes a repair and replacement reserve for capital projects in the wastewater service provider's capital projects fund and allocates from the repair and replacement reserve.

(b) The governing body of a wastewater service provider shall adopt an annual operating budget that includes ongoing funding described in Subsection (4)(a)(ii).

(5) (a) A wastewater service provider shall submit a report of the wastewater service provider's qualified capital asset facilities to the division as follows:

(i) if the wastewater service provider is treatment works with a capacity of 1,000,000 gallons per day or more, by no later than December 31, 2022, and then every five years thereafter;

(ii) if the wastewater service provider is treatment works with a capacity of less than 1,000,000 gallons per day, by no later than December 31, 2023, and then every five years thereafter;

(iii) if the wastewater service provider is a sewerage system, by no later than December 31, 2024, and then every five years thereafter; and

(iv) if the wastewater service provider is a large underground wastewater disposal system or non-discharging treatment works, by no later than December 31, 2025, and then every five years thereafter.

(b) The qualified capital asset facilities report required under this Subsection (5) shall:

(i) describe the proposed replacement time frame for each qualified capital asset;

(ii) account for each funding source for a qualified capital asset and include any restrictions a funding source may impose on the use or disposal of the qualified capital asset;

(iii) account for any change in a qualified capital asset's value since the last qualified capital asset facilities report submitted by the wastewater service provider; and

(iv) provide a statement of actual expenditures and performance data for each qualified capital asset compared to budgeted expenditures.

Section 3. Section 73-10g-401 is enacted to read:

**Part 4. Capital Assets for Water****73-10g-401. Definitions.**

As used in this part:

(1) "Capital asset" means an asset that:

(a) is a significant investment or an essential component necessary to provide a service, including:

(i) a facility;

(ii) infrastructure, whether above or below ground level;

(iii) equipment; or

(iv) a communications network; and

(b) is owned by a water provider.

(2) "Governing body" means:

(a) for a political subdivision, the political subdivision governing body defined in Section [63A-15-102](#); or

(b) for a private entity, the private entity's board of directors, managing members, partners, or equivalent body.

(3) "Policy" means the capital asset assessment, maintenance, and replacement policy required under Subsection [73-10g-402](#)(1).

(4) "Qualified capital asset" means a capital asset that is:

(a) identified in a policy as a qualified capital asset in accordance with Subsection [73-10g-402](#)(1)(b); and

(b) inventoried, assessed, funded, or otherwise subject to a water provider's policy in accordance with Section [73-10g-402](#).

(5) "Retail water supplier" means the same as that term is defined in Section [19-4-102](#).

(6) "Water conservancy district" means the same as that term is defined in Section [73-10-32](#).

(7) "Water provider" means:

(a) a retail water supplier; or

(b) a water conservancy district.

Section 4. Section **73-10g-402** is enacted to read:

**73-10g-402. Capital asset policies.**

150           (1) (a) A water provider shall adopt a policy for the assessment, maintenance, and  
151 replacement of a capital asset that is a qualified capital asset.

152           (b) A policy shall define in general or specific terms which capital assets are qualified  
153 capital assets.

154           (c) A water provider shall adapt the terms of a policy to the size of the water provider  
155 measured either by annual operating budget or the number of connections served by the water  
156 provider.

157           (2) The policy shall require the water provider to:

158           (a) complete an inventory of each qualified capital asset; and

159           (b) assess the physical condition of the qualified capital asset at least every five years  
160 in accordance with a method established under Subsection (3)(a)(i).

161           (3) (a) The policy shall establish:

162           (i) a method to assess the physical condition of a qualified capital asset;

163           (ii) performance and condition standards for a qualified capital asset;

164           (iii) a program for monitoring and reporting the water provider's application of and  
165 compliance with the policy, including a comparison of each qualified capital asset's current  
166 status and targeted standards for that qualified capital asset as set forth in the policy;

167           (iv) a process for the water provider to evaluate an existing qualified capital asset for  
168 efficiency and expected service delivery; and

169           (v) objective criteria for the water provider to prioritize maintenance or replacement of  
170 a qualified capital asset.

171           (b) A performance and condition standard described in Subsection (3)(a)(ii) may be:

172           (i) a mandated safety standard;

173           (ii) a standard condition of receiving federal, state, or local funding; or

174           (iii) an applicable engineering or other professional standard.

175           (4) (a) As part of a policy, a water provider shall adopt financial guidelines to dedicate  
176 revenue to a priority qualified capital asset identified under Subsection (3)(a)(v) in accordance  
177 with a multiyear qualified capital plan that:

178           (i) includes criteria and guidelines in the policy for allocating sufficient funds in a  
179 multiyear qualified capital asset plan and in the water provider's annual operating budget for  
180 assessing, maintaining, repairing, and replacing qualified capital assets;

(ii) establishes an ongoing source of funds in the multiyear qualified capital asset plan and each annual operating budget for repair and replacement costs of qualified capital assets in accordance with the policy; and

(iii) for a water conservancy district, establishes a repair and replacement reserve for capital projects in the water conservancy district's capital projects fund and allocate from the repair and replacement reserve, subject to Subsection 17B-1-612(5).

(b) The governing body of a water provider shall adopt an annual operating budget that includes ongoing funding described in Subsection (4)(a)(ii).

(5) (a) A water provider shall submit a report of the water provider's qualified capital asset facilities as follows:

(i) if the water provider is a retail water supplier, the water provider shall submit the report to the Division of Drinking Water:

(A) if the water provider serves 10,000 service connections or more, by no later than December 31, 2022, and then every five years thereafter;

(B) if the water provider serves at least 3,000 service connections but less than 10,000 service connections, by no later than December 31, 2023, and then every five years thereafter;

(C) if the water provider serves at least 1,000 service connections but less than 3,000 service connections by no later than December 31, 2024, and then every five years thereafter; and

(D) if the water provider serves at least 500 service connections but less than 1,000 service connections, by no later than December 31, 2025, and then every five years thereafter;

(ii) if the water provider is a water conservancy district, the water provider shall submit the report to the Division of Water Resources by no later than December 31, 2022, and then every five years thereafter.

(b) The qualified capital asset facilities report required under this Subsection (5) shall:

(i) describe the proposed replacement time frame for each qualified capital asset;

(ii) account for each funding source for a qualified capital asset and include any restrictions a funding source may impose on the use or disposal of the qualified capital asset;

(iii) account for any change in a qualified capital asset's value since the last qualified capital asset facilities report submitted by the water provider; and

(iv) provide a statement of actual expenditures and performance data for each qualified

212 capital asset compared to budgeted expenditures.

213 (6) A qualified water conservancy district, as defined in Section [17B-2a-1010](#), is not

214 subject to this part but shall comply with Section [17B-2a-1010](#).